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**Federal Communications Commission**  
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**Washington, D. C. 20554**

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

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FOR IMMEDIATE RELEASE  
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## **FCC LAUNCHES NEXT GENERATION MOBILE SATELLITE SERVICE IN THE 2 GHz BAND**

Washington, D.C. – The FCC has adopted rules for the next generation of mobile satellite services (MSS). Upon launch, these new systems will provide mobile voice, data, Internet and other services to U.S. consumers for communications in the United States and around the world. The service, which will operate in the 2 GHz band, will create new service options for local, regional and global mobile communication in competition with other telecommunications services. Offerings will be available throughout the United States, including rural areas. The systems under consideration include geostationary and non-geostationary orbit systems. As a result of the Commission's decision, these operators will be positioned to move forward in developing their systems.

The Commission adopted an innovative band plan arrangement that can accommodate the multiple and technically-diverse systems that have requested authorization, and described the method to be used for licensing. The 2 GHz MSS service covers 70 megahertz of spectrum in the 1990-2025 MHz and 2165-2200 MHz bands. Pursuant to the Commission's new rules, each authorized system will receive an equal share of the available frequencies. A licensee will select the specific frequencies in which its primary operations will take place at the time it has launched one satellite into its intended orbit. In addition, because there are a number of incumbent terrestrial services in the 2 GHz bands, each authorized system will have flexibility to operate at other frequencies in the band. This flexibility may lower the costs of relocating incumbent systems and facilitate quicker deployment of service. To encourage delivery of mobile satellite services to rural service areas, the Commission reserved an additional spectrum segment to be awarded in equal shares to systems demonstrating that a percentage of their capacity is contracted with service providers that offer service to consumers in rural service areas.

The Commission found that it was not necessary to apply financial qualification requirements to the applicants. Consistent with its past spectrum management policies, the Commission is requiring construction and launch of authorized 2 GHz MSS systems no later than six years from the date of authorization. In addition, the new rules require disclosure, prior to authorization, of orbital debris mitigation measures for 2 GHz MSS systems. The Commission also addressed provision of distress and safety communications and 911 services, and stated that it would study this issue in greater detail in the pending Global Mobile Personal Communications by Satellite proceeding.<sup>1</sup>

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<sup>1</sup> See Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite

The system proponents are required to amend their proposals to comply with the rules adopted. Following a public comment period, qualified systems will be authorized to operate.

Action by the Commission August 14, 2000, by *Report and Order* (FCC 00-302). Chairman Kennard, Commissioners Ness and Tristani, each issuing separate statements; Commissioners Furchtgott-Roth and Powell approving in part, dissenting in part, and issuing a joint separate statement.

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## SEPARATE STATEMENT OF CHAIRMAN WILLIAM E. KENNARD

*Re: The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, FCC 00-302, IB Docket No. 99-81 (rel. August 25, 2000).*

I am pleased that the Commission has adopted licensing and service rules for the 2 GHz mobile satellite service. This action should enhance competition and new service offerings, such as voice, data, and Internet services, in the mobile communications markets, to the benefit of consumers. The rules adopted are technologically neutral, and will facilitate deployment of a wide range of innovative systems.

I am particularly encouraged by this action because it involves one of the Commission's most important responsibilities – making service available “to all the people of the United States,” including those in rural and geographically remote areas. Congress has made the importance of this mandate eminently clear, for both traditional telecommunications services, and for emerging advanced services.

While satellite services have played an important role in bringing services to remote areas, there remain significant unmet needs for communications services in these areas. It is vitally important that the unique capabilities of satellite systems be used to address these needs. Because the cost of satellite communications is essentially the same, whether the particular user is in the largest city, or the most isolated area, satellite technologies present a unique opportunity to address unmet needs.

The newly adopted regulations include a significant incentive for companies to address this concern. This incentive puts the market to work to meet unmet needs, not through a specific command to perform in a certain way, but by providing a small but palpable incentive. Specifically, 2 GHz systems that offer satellite capacity to service providers that are capable of providing service to consumers in unserved areas will be eligible to receive additional 2 GHz spectrum. Our incentive recognizes that most 2 GHz providers will be selling wholesale capacity to retail providers and that 2 GHz providers will want additional spectrum. Therefore, the incentive is structured to encourage 2 GHz providers to enter into capacity arrangements with carriers that are serving rural areas.

This incentive is the product of an open process in which the Commission sought broad comment on service to rural areas, and on licensing mechanisms to foster such service. I look forward to the next step in this process -- working cooperatively with industry to implement this incentive promptly.

I strongly support this incentive, as an important step in pursuing all possible means for providing service to all the people of the United States.

## SEPARATE STATEMENT OF COMMISSIONER SUSAN NESS

*Re: The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, FCC 00-302, IB Docket No. 99-81 (rel. August 25, 2000).*

I support our adoption today of rules governing the provision of Mobile Satellite Service (“MSS”) in the 2 GHz Band. These rules implement a creative band plan that should result in the expeditious licensing of new satellite providers of voice, data, and messaging services.

Satellite technologies have long held the promise of providing communications services to rural areas in this country. Compared with terrestrial systems, there is relatively little incremental cost for satellites to reach customers located in high-cost areas, since providers do not have to extend network infrastructure across vast stretches of sparsely populated terrain. Our Order creates an extra incentive for MSS licensees to fulfill this promise by making available additional spectrum for service providers who market service to our nation’s rural and remote areas.

I fully support the rural service incentive, but I write separately to suggest a willingness to entertain additional comments on the details of our mechanism for assigning this additional spectrum. I also would have preferred to establish a procedure for redistributing spectrum that is abandoned by licensees that do not meet their operational milestones. Given the unique nature of the band plan we adopt today, I believe that we should consider seriously whether to adopt a method for reassigning abandoned spectrum among existing licensees.

That having been said, I do not wish to see further delay in adopting the 2GHz MSS framework while we address the issues. Prospective licensees need authorization to begin their long-awaited service offerings. Adjustments to the mechanism for assigning additional spectrum and consideration of how best to reassign abandoned spectrum can be adequately addressed in further proceedings or on reconsideration.

## Separate Statement of Commissioner Gloria Tristani

Re: *The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, FCC 00-302, IB Docket No. 99-81 (rel. Aug. 25, 2000).

I am pleased to support this decision, which creates an innovative band plan for the next generation of the mobile satellite service (MSS) systems. The rules we adopt here account for the evolving nature of the MSS marketplace and set the stage for licensing and service deployment. I write separately to express my support for the expansion spectrum policy and our commitment to further examine 911 issues in the satellite context.

The 2 GHz MSS system proponents offer the promise of new and innovative services, particularly in rural and unserved areas. Our action here is yet another step in fulfilling our mandate to make nationwide and worldwide communications available to all Americans.<sup>1</sup> The expansion spectrum policy we adopt creates an incentive-based mechanism to encourage MSS rollout in unserved communities. The triggering criterion offers any MSS licensee the opportunity to gain additional spectrum if meaningful capacity is available for consumers in unserved areas. As a result, I support the policy.

In addition, I am pleased that as part of this decision the Commission commits to further examine 911 policies in the MSS context. Emergencies can and do occur just about everywhere, including locations where phone lines do not reach.<sup>2</sup> A mobile phone can mean the difference between isolation and help-on-the-way, and in such instances consumers should not have to be concerned about whether their handset is terrestrial- or satellite-based. They simply need access to public safety assistance.

The Commission previously concluded that enhanced 911 (E911) policies should not extend to the MSS industry in its early stages, but recent developments suggest that earlier technology hurdles may no longer be a barrier to E911 location capability in satellite services.<sup>3</sup> Because this proceeding lacks an adequate record on E911, however, we direct the International Bureau to issue a public notice seeking input on E911 capability in satellite services, which we will consider as part of the upcoming Global Mobile Personal Communications by Satellite

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<sup>1</sup> See 47 U.S.C. § 151 (mandating that the Commission “make available, so far as possible, to all the people of the United States . . . a rapid, efficient, Nation-wide, and world-wide wire and radio communication service with adequate facilities at reasonable charges.”). The Commission has taken other notable action this summer to increase access to telecommunications services in unserved areas. See *Federal-State Joint Board on Universal Service: Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, 12th Report and Order and Memorandum Opinion and Order, FCC 00-208 (rel. June 30, 2000); *Extending Wireless Telecommunications Services to Tribal Lands*, Report and Order and Further Notice of Proposed Rulemaking, FCC 99-266 (rel. June 30, 2000).

<sup>2</sup> The Cellular Telecommunications Industry Association (CTIA) reports that there were 43 million wireless 911 calls made in 1999, nearly 120,000 each day. See < <http://www.wow-com.com/statsurv/e911/>>.

<sup>3</sup> See *Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Third Report and Order, 14 FCC Rcd 17388 (1999) (revising our location rules to allow handset-based technologies to compete with network-based technologies).

(GMPCS) proceeding.<sup>4</sup> With a more fully developed record, I look forward to examining E911 issues in the MSS context and moving quickly in the GMPCS proceeding.

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<sup>4</sup> See *Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS) Memorandum of Understanding and Arrangements*, Notice of Proposed Rulemaking, 14 FCC Rcd 5871 (1999).

**JOINT SEPARATE STATEMENT OF COMMISSIONERS  
HAROLD FURCHTGOTT-ROTH AND MICHAEL POWELL  
Approving in part, Dissenting in part**

*Re: The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, FCC 00-302, IB Docket No. 99-81, Report and Order (Rel. August 25, 2000).*

We support today's decision to promulgate service rules for Mobile Satellite Service (MSS) in the 2 GHz band. Many of the proposed service providers in this band have been waiting years to get underway. We are pleased that these providers will soon be competing in the marketplace.

We are concerned, however, about the decision to adopt a specific mechanism for determining eligibility for spectrum set-aside for service to rural areas. Conceptually, we are intrigued by the possibility of making additional spectrum available to providers who can demonstrate a meaningful commitment to providing service in underserved areas.<sup>1</sup> However, the United States has never before pursued a satellite licensing approach that rewards a provider with additional spectrum based on a service commitment. In assessing such a new initiative, it seems to us that the Commission has an obligation to weigh carefully the policy implications of any particular approach and to vet fully our proposals with the public. Here, we are concerned that the majority has rushed to judgment in an effort to proclaim that the FCC is "doing something" for underserved areas – in reality that "something" appears to be almost nothing.

This decision to adopt specific qualifying criteria for the set-aside spectrum is based on a virtually non-existent record. The gap in the record is understandable, since the parties were never provided with a clear opportunity to comment on any specific qualifying criteria. Instead, the Notice only sought "guidance" on "any policies or rules we could implement (or forebear from) to encourage 2 GHz MSS service to [unserved, rural, insular, or economically isolated] areas."<sup>2</sup> While the Notice did seek comments relating to providing incentives for service to rural and unserved communities,<sup>3</sup> it did not even address the idea of having a spectrum set-aside, how much the set-aside should be or how providers could qualify for the "extra" spectrum. As a policy matter, we do not believe that such a vague request provided sufficient notice to the parties that such a specific and detailed decision would be forthcoming.<sup>4</sup> The American people would be better served by promulgating a further notice to assess the efficacy of any particular approach. This agency is embarking in a potentially transformative new policy direction – more

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<sup>1</sup> See 47 U.S.C. § 151; *Order* at ¶¶ 31-35.

<sup>2</sup> See *The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, Notice of Proposed Rulemaking*, IB Docket No. 99-81, 14 FCC Rcd 4843, ¶ 95 (1999).

<sup>3</sup> See *id.*

<sup>4</sup> It is also not completely clear that the Notice was legally sufficient. See *Fertilizer Inst. v. EPA*, 935 F.2d 1303, 1311 (D.C. Cir. 1991) (holding 5 U.S.C. 553(b)(3) to mean that "an agency's notice must provide sufficient detail and rationale for the rule to permit interested parties to comment meaningfully."); *Horsehead Resource Development Company, Inc. v. Browner*, 16 F.3d 1246, 1268 (D.C. Cir. 1994) (stating that an agency is obligated to "describe the range of alternatives being considered with reasonable specificity. Otherwise, interested parties will not know what to comment on, and notice will not lead to better-informed agency decision-making.") (internal quotation marks and citation omitted).

spectrum in exchange for service commitment quotas to targeted areas. We owe it to all the parties and the public to develop a full record before we proceed.<sup>5</sup>

We are also concerned that the qualifying criteria in the Order will not actually achieve the Commission's stated goals.<sup>6</sup> Under the Order, when a service provider demonstrates to the Commission that it has reserved and contracted to use 10 percent of its U.S. capacity to serve rural and underserved areas, the Commission will notify other service providers that it will begin accepting applications for the set-aside expansion spectrum.<sup>7</sup> Once all the applications are filed, the set-aside spectrum is to be divided evenly among the qualifying licensees. The "demonstration" requires only service contracts. There is no requirement that the system initially provide any service to rural areas. Nor is there any requirement that the qualifying system provide any particular level of service in the future. The only requirement is that 10 percent of the capacity on the system be reserved and contracted for this use. Under this standard, it appears that a ubiquitously available service, such as one that could be received on aircraft, would qualify based on its service to rural areas. In short, it appears that virtually every licensee will qualify for a sliver of the set aside spectrum, without anyone necessarily providing the desired amount of service to rural and underserved areas.

We applaud the Commission's efforts to explore how satellite services can be used to meet the communications demands of underserved and unserved areas. However, in embarking on this mission, we believe we have an obligation to ensure that our press release promises meaningfully correspond to our promulgated policies.

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<sup>5</sup> Certainly, we are sensitive to the need of making use of the spectrum as quickly as possible. By addressing the set-aside and eligibility in a further notice, however, even under the majority's approach the Commission could still provide immediate access to almost 90 percent of the spectrum, but could also ensure that the last piece of "expansion" spectrum is distributed fairly without undue regulatory constraints or requirements. Indeed, the majority is not even accepting applications for the expansion spectrum until one year after the first 2 GHz MSS authorization is issued; plenty of time to provide adequate notice. There are also readily available alternatives that would make all of the spectrum available for licensing immediately, while allowing us to consider meaningful incentives for service to rural areas. For example, a further notice could have explored the use of rural service incentives for the redistribution of "abandoned" spectrum. As the Order provides, "there is a probability that additional spectrum will become available as some authorized systems are not able to implement service." *Order* at ¶ 18. But the item does not establish a policy for the redistribution of abandoned or forfeited spectrum. It seems to push that off to a further proceeding. A further notice would have had at least two additional benefits: (1) it would get the ball rolling on establishing a policy for the redistribution of abandoned spectrum, with the potential of making it available to those truly motivated to serve rural areas; and (2) even if only one applicant dropped out, this process would consider more spectrum (3.88 MHz vs. 3.5 MHz) than the majority's set aside approach. This would also avoid holding hostage the sliver of "expansion" spectrum for a second processing round involving an uncertain and prolonged review of service contracts by the FCC more than a year from now. And, based on the comments about their current business plans, almost all applicants could eventually get the spectrum anyway since they are planning to serve these areas. *See id.* at ¶ 33.

<sup>6</sup> *See, e.g., id.* at ¶ 32.

<sup>7</sup> *See id.* at ¶¶ 35-38. However, requests for expansion spectrum will not be accepted until one year after the first 2 GHz system is authorized. *Id.* at ¶ 38.